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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/803,945	03/19/2004	Kenichi Shimooka	TSM-37	7176
24956	7590	01/22/2008	EXAMINER	
MATTINGLY, STANGER, MALUR & BRUNDIDGE, P.C. 1800 DIAGONAL ROAD SUITE 370 ALEXANDRIA, VA 22314			PERUNGAVOOR, VENKATANARAY	
ART UNIT		PAPER NUMBER		
2132				
MAIL DATE		DELIVERY MODE		
01/22/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/803,945	SHIMOOKA ET AL.
	Examiner	Art Unit
	Venkat Perungavoor	2132

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 18 November 2007.  
 2a) This action is **FINAL**.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 7,9-11,14-17,19 and 21-28 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 7,9-11,14-17,19 and 21-28 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_

5) Notice of Informal Patent Application

6) Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Arguments*

Applicant's arguments with respect to claims 7, 10-11, 14-17, 19 & 21-28 have been considered but are moot in view of the new ground(s) of rejection.

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 7, 9-11, 14-17, 19, 21, 24, 26 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent Publication 2003/0135783 to Martin et al.(hereinafter Martin).

Regarding Claim 7, 10-11, 14, Martin discloses the computer system including a host computer coupled to and separate from a storage system which has a first volume(Fig. 2 item 206) for storing data received from the host computer and a second volume(Fig. 2 item 210) that is a pair of said first volume and that stores data that is replicated from said first volume, and a storage control unit(Fig. 2 item 204) for controlling the data replication from the first volume to said second volume, a data protection apparatus coupled to and separate from the host computer and the storage system, comprising: an event detection unit(Fig. 22 item 2204) for detecting an event occurrence see Fig.

23; a replication stopping unit(Fig. 2 item 202) for instructing said storage control unit to stop the replication of data of said first volume to said second volume, when said event detection unit detects an event see Par. 0043; and an illegal intrusion detection unit for detecting an illegal intrusion into said host computer; wherein said event detection unit receives a detection of the illegal intrusion from said illegal intrusion detection unit(Fig. 22 item 2208) see Par. 0094; and when said event detection unit receives the detection of the illegal intrusion, said replication stopping unit instructs said storage control unit to stop data replication from said first volume to said second volume that is the pair of said first volume see Par. 0093.

Regarding Claim 9, 19, 21, 24, 26 Martin discloses the virus detecting unit detecting the virus and the event detection unit(MIA) receives this notice and stops the replication see Par. 0043 & Par. 0095.

Regarding Claim 15, Martin discloses the time factor involved in replication see Fig. 5.

Regarding Claim 16-17, Martin discloses the volumes of storage units see Fig. 4.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 22-23 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Publication 2003/0135783 to Martin et al.(hereinafter Martin) in view of US Patent Publication 2004/0236907 to Hickman.

Regarding Claim 22-23, 25, 27-28, Martin does not explicitly disclose the stopping by disconnection of path and canceling of data. However, Hickman discloses the stopping by disconnection of path and canceling of data see Fig. 2 & Par. 0076. It would be obvious to one having ordinary skill in the art at the time of the invention to include the stopping by disconnection of path and canceling of data in the invention of Martin in order to have an parallel process as taught in Hickman see Fig. 2.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Venkat Perungavoor whose telephone number is 571-272-7213. The examiner can normally be reached on 8:30-5:00. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gilberto Barron can be reached on 571-272-3799. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/VP/  
Venkat Perungavoor  
Examiner  
Art Unit 2132  
January 18, 2008

*Gilberto Z.*  
GILBERTO BARRON JR  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100